

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4166 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

and

MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy : YES
of the judgement?

4. Whether this case involves a substantial question : YES
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : YES

RAMBHAI JETHABHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

MR AJ PATEL for Petitioner

MR HL JANI, AGP for Respondents No. 1 & 2

MR KM PARIKH for Respondent No. 3

CORAM : MR.JUSTICE J.M.PANCHAL and

MR.JUSTICE R.P.DHOLAKIA

Date of decision: 16/08/1999

ORAL JUDGEMENT

(Per : Panchal,J.)

Rule. Mr. H.L.Jani, learned A.G.P. waives

service of notice of rule on behalf of respondents no.1 & 2. Mr. K.M.Parikh, learned Counsel waives service of notice of rule on behalf of respondent no.3.

At the joint request of learned advocates appearing for the parties, the petition is taken-up for final hearing today.

2. By means of filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or any other appropriate writ or order directing the 3rd respondent-Corporation to forward a proposal for initiating acquisition proceedings in respect of the land bearing Revenue Survey No.40, admeasuring 6165 sq.mts. of village Hansalpur-Shareshwar, Taluka : Viramgam, District : Ahmedabad and to direct the respondent no.2 to declare the award in respect of the said land within reasonable period which may be stipulated by the Court. The petitioner has also prayed to direct 3rd respondent to pay compensation to the petitioner in respect of the said land as determined by respondent no.2 in accordance with law.

3. During the pendency of the petition, parties to the petition have presented consent terms dated August 16, 1999. The consent terms read as under :-

"IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
DISTRICT : AHMEDABAD
SPECIAL CIVIL APPLICATION NO. 4166 OF 1999

Rambhai Jethabhai Parmar,
residing at village Kajipura,
Taluka : Viramgam
District : Ahmedabad. Petitioner

versus

1. State of Gujarat,
Notice to be served through
Secretary, Revenue Department,
New Sachivalaya, Gandhinagar.
2. The 2nd Additional Special Land
Acquisition Officer, Collector's

Office, Gheekanta Road,
Ahmedabad: 380 001

3. The Indian Oil Corporation Ltd.,
Salaya-Mathura Pipelines,
P.O. Box No. 1007, Bedipara,
Morvi Road, Gauridad,
District : Rajkot. ... Respondents

CONSENT TERMS

Both the parties hereby agree i.e. petitioner and respondent no.3 for the compromise of the subject matter of S.C.A. 4166/99. The terms of compromise are as under:

1. The respondent no.3 and petitioner hereby agree to go before 2nd Additional Land ACquisiton Officer, Ahmedabad and to have consent award u/s. 11(2) of the Land Acquisition Act for lands bearing R.S.No.40 admeasuring 6165 sq.mts. of land only. Since, the respondent no.1 have already issued and published notification u/s.4(1) of the Land Acquisition Act to acquire total land of 17800 sq.mts. of land including the lands admeasuring 6165 sq.mts.
2. The respondent no.3 hereby agrees to pay Rs. 165/- per sq.mt. in all towards full and final settlement by way of compensation of lands bearing R.S.No.40 of village HansalpurSareshwar, Tal. Viramgam, Dist : Ahmedabad, admeasuring 6165 sq.mts. of land, the possession of which was lawfully taken by respondent no.3 from the petitioner in the year 1977. The petitioner hereby agrees and willing to accept the total amount of compensation to be paid by the respondent to them at the rate of Rs. 165/per sq.mt. in all for lands admeasuring 6165 sq.mts. only as a full and final settlement.
3. It is hereby agreed by and between petitioner and respondent no.3 that respondent no.3 shall make payment of Rs.10,17,225/- towards total amount of compensation in all as a full and final settlement of lands bearing Survey No.40 admeasuring 6165 sq.mts. only to the petitioner after the period of seven weeks from the date of declaration of the consent award u/s. 11(2) of the Land Acquisition Act by the 2nd Additional L.A.Q.Officer, Ahmedabad.

Both the parties hereby agree to request this Hon'ble Court to give appropriate direction to 2nd Additional Land Acquisition Officer, Ahmedabad to complete and declare the consent award for the lands in question u/s. 11(2) of the Act within six weeks. The same shall be binding to both the parties.

4. It is hereby agreed by and between the parties that ownership and all incidental rights, title and interest of the lands bearing survey no.40 admeasuring 6165 sq.mts. of land only have already and lawfully vested in respondent no.3 right from the date, on which the respondent took possession i.e. on 20.4.1977.
5. The petitioner hereby declares that he had no right, title, interest and claim in the lands bearing R.S.No. 40 admeasuring 6165 sq.mts. of lands right from 20.4.1977.
6. The petitioner hereby agrees to sign to any consent agreement that may be necessary to be executed before the 2nd Additional Land Acquisition Officer, Ahmedabad u/s. 11(2) of the Land Acquisition Act on the terms stated hereinabove.
7. The petitioner hereby declares that this agreement and any consent award that may be passed in respect of this land shall bind the petitioner, his heirs, legal representatives, attorneys, agents and servants etc.
8. The petitioner hereby declares that they have been the owners of the lands in question right from the very beginning upto the stage of taking over possession i.e. on 20.4.77 by the respondent no.3 and nobody else other than petitioner have had right, title, claim and interest in the lands bearing Survey No.40 admeasuring 6165 sq.mts. of lands.
9. The petitioner hereby undertakes to this Hon'ble Court that the petitioner shall not raise any objection and claim in future before any competent court of law as well as before the 2nd Additional Land Acquisition Officer, Ahmedabad, in respect of payment of total amount of compensation to be paid in all by respondent no.3

in respect of lands bearing survey no.40 admeasuring 6165 sq.mts. of land only as a full and final settlement.

10. The petitioner hereby agrees that he shall not rely on the aforesaid rate of compensation as a condition precedent in other land acquisition proceedings initiated as well as to be initiated in accordance with law. The petitioner shall not claim any damages or further compensation from the respondent no.3 in any event. The petitioner shall not claim the possession of the lands in question from the respondent no.3.
11. The petitioner and respondent no.3 hereby undertake to this Hon'ble Court to abide by this consent terms.

In view of the aforesaid consent terms, the petition may be ordered to be disposed of accordingly and the notice issued to the respondent no.3 be discharged with no order as to cost.

Sd/- Rambhai Jethubhai

(Rambhai J. Parmar) Sd/- Illegible

(M.M.Gohel)

S.O.& M.E. (L)

On behalf of IOCL-SMPL, Rajkot

Sd- Illegible Sd/- Illegible

(A.J.Patel) (K.M.Parikh)

Advocate for Petitioner Advocate for Respondent no.3

I certify that the petitioner is explained in Gujarati contents of these terms and he has understood the same.

Sd/- Illegible

Advocate

16.8.99"

The consent terms are read over and explained to the petitioner who is personally present in the Court. The petitioner has stated that he has understood the contents of the consent terms and after understanding the same, he has signed the consent terms. Similarly, on behalf of respondent no.3, consent terms are signed by M.M.Gohel, Sr. Operations & Maint Engineer, Indian Oil Corporation Ltd. Salaya Mathura Pipelines, Morvi Road, Gauridad, Post Box No.1007, Bedipara, Rajkot. The consent terms are also signed by the learned Counsel appearing for the parties.

The consent terms are ordered to be taken on

record of the petition.

In view of the consent terms, following directions are given :-

- (1) Respondents no.1 & 2 shall make consent award under section 11(2) of the Land Acquisition Act, 1984 for survey No.40, admeasuring 6165 sq.mts. of village Hansalpur-Sareshwar, Tal. Viramgam, District : Ahmedabad as early as possible and preferably within six weeks from the date of production of certified copy of this judgment.
- (2) After award is made under section 11(2) of the Act, respondent no.3 shall deposit a sum of Rs. 10,17,225/- payable as compensation to the petitioner, with respondent no.2 as early as possible and preferably within seven weeks from the date of the award. Thereafter the said amount shall be paid by the respondent no.2 to the petitioner immediately without loss of time and latest within one week from the date of deposit.

Rule is made absolute in terms of the consent terms, with no order as to costs.

(patel)